

**MINUTES OF THE EXECUTIVE SESSION OF THE COMMITTEE OF THE
WHOLE MEETING OF THE CITY COUNCIL OF THE CITY OF COLUMBIA,
ILLINOIS HELD MONDAY, OCTOBER 13, 2008 IN THE COUNCIL ROOM OF
CITY HALL**

I. CALL TO ORDER

Alderman Ebersohl called the Executive Session of the Committee of the Whole Meeting of the City Council of the City of Columbia, Illinois to order at 8:20 p.m.

Upon Roll Call, the following members were:

Present: Mayor Hutchinson and Aldermen Ebersohl, Agne, Niemietz, Row, Hejna, Oberkfell, and Stumpf.

Absent: Alderman Unnerstall.

Quorum Present.

Administrative Staff Present: City Attorney Tom Adams, Attorney Charles Pierce (retained by the Illinois Municipal League Risk Management Association Insurance Company) and Deputy Clerk Donna Mehaffey.

II. STS CUSTOM HOMES VERSUS THE CITY OF COLUMBIA

Attorney Charles Pierce explained why he was at the meeting. Mr. Kevin Blaine of the IMLRMA has retired and he has taken his place.

- Wants to make sure the city is up to date on the litigation.
- Does City want Mr. Adams to get involved in the lawsuit?
- Mr. Pierce doesn't get involved with coverages of insurance and any injunctive relief.
- STS Custom Homes is seeking that one of the City Ordinances is unconstitutional.
- This is the City Ordinance where the developer has to reimburse the City for attorney and engineering services.
- The IMLRMA cannot get involved with City Ordinances, but Mr. Adams can.
- Mr. Pierce explained the lawsuit as the new Aldermen were unaware of the situation and the location of the proposed development.
- The development is a bowl shaped development called Pinecreek Subdivision.
- Mr. Ken Vaughn and Mr. Larry Kremmel, previous employees of the City, were involved in the situation.
- Regional water detention or drainage was also an issue.
- There is a huge drainage area behind the old railroad right-of-way, similar to a levee.
- Former members of the Plan Commission Mike Van Riper and Dan Row brought out issues on the area.

- There is so much drainage there; the developer can't put a subdivision in.
- STS Custom Homes attorney is Mr. Art Morris.
- Mr. Dan Row and Mr. Ken Vaughn are due to give their depositions.
- Mr. Morris has hired an engineer and wants the old railroad right-of-way to be removed. The construction cost estimate was 1 to 2.5 million. Wants the City to do that and wants the City to do something about it.
- Injunctive relief is hard to be done against a City.
- If the old railroad right-of-way would be removed, this would change flood maps.

- The City hired Hoelscher Engineering to perform a hydrology study to determine if the Federal Emergency Management Agency (FEMA) maps were correct and Hoelscher Engineering determined the FEMA maps were incorrect. FEMA accepted the Hoelscher Engineering hydrology study and changed their FEMA maps accordingly.
- Regional detention allows and provides for a development to purchase and use surface water detention facilities off the premises of the development for storm water management for the development which avoids the cost and loss of use of on site property for on the premises of the development storm water management.
- When the City wanted to obtain an Illinois Department of Natural Resources (IDNR) permit to use the area at the railroad right of way for regional detention, IDNR originally classified the City's railroad right of way as a Class I dam that did not meet IDNR standards and which at the time would have cost the city approximately One Million Dollars to reconstruct according to IDNR requirements. After much debate, IDNR agreed to classify the railroad right of way as a Class III dam provided the City would enact an ordinance agreeing to keep the culverts located beneath the railroad right of way cleaned out to avoid down stream flooding, which the City did do.

- Mr. Adams got out of it when the IMLRMA took over.
- There are around 20 houses proposed in the subdivision and what will happen when the basements flood? Some of the homes can't have basements.
- The development is located off of Centerville Road.

- STS started to put in infrastructure without permission.
- Mr. Adams could work with Mr. Pierce on the depositions and the suit.

- Developer needs to be responsible.
- The City has a Cooperation Agreement with the developer of the Pioneer Subdivision that obligates the City to construct and install a sanitary sewer transmission line through the subject Pine Creek Subdivision property in order to provide new and different sanitary sewer service to the Pioneer Ridge Subdivision.

That
sanitary sewer line will provide for sanitary sewer service for the Nahm and Bai
properties and open up the whole area for development.

Mr. Pierce indicted that based upon the discovery that has already been completed, he has the various amounts of money STS has invested in the Pine Creek Estates Subdivision project and he can provide that information to the City Council.

- Lawsuit was first filed in 2006.

- There will be six to eight depositions at the most.
- Mr. Gary Hoelscher of Hoelscher Engineering is their witness.
- Mr. Brian Thompson is not involved with STS anymore, but this goes back to when he was involved.
- It was questioned what the reserve was on this suit from the insurance company.

It was the consensus of the City Council to appoint City Attorney Tom Adams as co-counsel for the STS Custom Homes versus the City of Columbia lawsuit.

III. ADJOURNMENT

MOTION:

It was moved by Aldermen Row and seconded by Alderman Niemietz to adjourn the Executive Session of the Committee of the Whole Meeting of the City Council of the City of Columbia held Monday, October 13, 2008 at 9:03 p.m. Upon Roll Call vote, Aldermen Ebersohl, Agne, Niemietz, Hejna, Row, Oberfell and Stumpf voted yea.
MOTION CARRIED.

Gene Ebersohl
Alderman GENE EBERSOHL, Chairman
COMMITTEE OF THE WHOLE

Donna Meaffey
DONNA MEHAFFEY, Deputy Clerk